

REMARKS

INTERVIEW SUMMARY

Applicants thank the Examiner for the courtesy she showed to the undersigned during the interview on March 17, 2008. The Examiner agreed during the interview that original claim 5 provides support for the dielectric layer as used in claims 67, 68, 73, and 87-95. The Examiner indicated that the specification does not provide antecedent basis for the claim language as required by 37 C.F.R. 1.75(d)(1). The undersigned stated that the absence of antecedent basis does not imply lack of support for the amendment under 35 U.S.C. § 112 because an original claim can provide support for an amendment. During the interview, the Examiner agreed that the description may be amended to include antecedent basis for the subject matter claim in original claim 5, so long as no new matter is added.

Rejection Under 35 U.S.C. § 112, First Paragraph

The Action dated February 25, 2008 rejected claims 67, 68, and 73 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Action also rejected claims 87-95 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Action alleges that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention because the only disclosure in the specification regarding a dielectric layer is with regard to the prior art. Action, pages 2-3.

The written description requirement is satisfied, because the original claims form a part of the specification. 35 U.S.C. § 112, second paragraph, provides "The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention." Moreover, MPEP 2163.06(III) provides:

"The claims as filed in the original specification are part of the disclosure and therefore, if an application as originally filed contains a claim disclosing material not disclosed in the remainder of the specification, the applicant may amend the specification to include the claimed subject matter. *In re Benno*, 768 F.2d 1340, 226 USPQ 683 (Fed. Cir. 1985)."

In view of the above, no new matter has been added by the amendment to paragraph [0021]. Additionally, the Court of Appeals for the Federal Circuit has held that “[a]ny part of the specification can support an enabling disclosure, even a background section that discusses, or even disparages, the subject matter disclosed therein.” *Callicrate v. Wadsworth Mfg., Inc.*, 427 F.3d 1361, 77 USPQ2d 1041 (Fed. Cir. 2005). Thus, discussing a pixel structure with regard to the prior art, as done in the specification as filed, provides support for claims 67, 68, 73, and 87-95. Applicants submit that one of ordinary skill in the art would have understood from the specification as filed that the device structure comprises a pixel structure, which includes an organic polymer layer formed over one or more layers of material. Thus, one of ordinary skill in the art would have recognized that the inventors possessed the invention as now claimed at the time the application was filed.

37 C.F.R. 1.75(d)(1)

Paragraph [0021] of the specification has been amended to include the subject matter of claim 5 as originally filed, and now recites: “The sealant region 403 is located perpendicular to the openings 405. As such, in selected locations of the openings 405, the exposed areas of substrate 402, which may be a dielectric layer, can receive sealant.” [emphasis added] Thus antecedent basis is now provided, satisfying 37 C.F.R. 1.75(d)(1).

Applicants also remind the Examiner that paragraph [0021] was previously amended in the response dated April 18, 2006. Paragraph [0021] was amended to recite that “the device substrate 402 comprises the organic EL display device, which comprises, for example, the OLED multi-layer pixel structure as shown in Fig. 1.” As shown in Fig. 1, organic polymer layer 108 is shown as being disposed over one or more layers of material. Moreover, paragraph [0005] provides that in the sealant region, the top two layers of the device substrate may typically be the organic polymer layer and a passivation (or dielectric) layer underneath thereby also providing antecedent basis to satisfy 37 C.F.R. 1.75(d)(1).

Appl. No. 10/782,259
Amdt. dated April 10, 2008
Reply to Office action of February 25, 2008

CONCLUSION

In view of the foregoing remarks, claims 67, 68, 73, and 87-95 comply with 35 U.S.C. § 112, first paragraph, and do not contain new matter. Claims 67, 68, 73, and 87-95 also have proper antecedent basis in the specification. Reconsideration of the application and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is respectfully requested.

The Assistant Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Dated: April 10, 2008

DUANE MORRIS LLP
30 South 17th Street
Philadelphia, Pennsylvania 19103
(215) 979-1250 (Telephone)
(215) 979-1020 (Fax)
(215) 979-1250 (Direct)

Respectfully submitted,

Steven E. Koffs

Steven E. Koffs, Reg. No.: 37,163
Attorney for Applicants